

UNITED STATES DISTRICT COURT: WESTERN DISTRICT WISCONSIN

QUORDALIS V. SANDERS

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED Rec'd

PLAINTIFF

2014-MAY-13-A-10-45

V.

EDWARD F. WALL, et al.

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
MAIL-REC'D

DEFENDENTS

NOTICE OF APPEAL/RECORDS

DOC NO
REC'D/FILED
2014 MAY 15 AM 9:30
PETER OPENEER
CLERK US DIST COURT
WD OF WI

Notice is hereby given that the above named Plaintiff Quordalis V. Sanders Pursuant to Rule 4, Fed.R App Proc, for an appeal filed from the final judgment and order entered on April 29, 2014 denying leave to proceed in forma pauperis (See District Court's Final Judgment and order dated April 29, 2014).

Wherein the district court dismissed the complaint for the Plaintiff allegedly failure to prepay the \$400.00 filing fee, consistent with the district court's order initially entered on April 4, 2014 (See District Court's order dated April 29, 2014).

However, although the Plaintiff had prepared and presented a sworn affidavit of indigency initially upon the filing of the complaint, which was also acknowledged by the district court within its initial order April 4, 2014 (See District Court's order at page 1, para 1 dated April 4, 2014) the district court still ordered that the Plaintiff prepay the initial partial filing fee of the complaint within 21 days of such order. It,

Moreover, the district court also cited the three strike rule under Title 28 U.S.C. § 1915 (3), as the Plaintiff having filed three or more frivolous lawsuits in the past (See Order

On April 29, 2014 at Page 3, Par. 1). Whereas Sub. (3), 28 U.S.C. § 1915 created an "exception" within this rule which provides "if the prisoner is in imminent danger of a serious physical injury" he or she may petition the district court for leave to proceed in forma pauperis upon the filing of a civil complaint therein. Id.

Moreover, Sub (4), 28 U.S.C. § 1915 provides "In no event shall a prisoner be prohibited from bring a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee."

Thus the district court's findings of fact and conclusion under Title 28 U.S.C. § 1915 (3) and Sub. (4) thereupon are "clearly erroneous" and are the basis for an appeal under 28 U.S.C. § 1291 within the United States Court of Appeals for review therein pursuant to Rule 28, Fed. R. App. Proc.

Executed and signed this 8th day of, May 2014

Respectfully Submitted:

Quardalis v. Sanchez

Mr. Quardalis v. Sanchez

Pro Se Appellant-Plaintiff